

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

DAVID T. TERRELL,

Plaintiff

VS.

TRACY CHAPMAN,

Defendant

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CIVIL ACTION NO.: 7:09-CV-121(HL)

ORDER

Pending before the Court is plaintiff's motion for reconsideration.

In this motion, plaintiff maintains that defendant, Assistant District Attorney Tracy Chapman, has immunity from damages only if she acted in good faith when she prosecuted him. This is not the case. "[A]bsolute prosecutorial immunity . . . extend[s] to allegations that a prosecutor knowingly used false testimony and suppressed material evidence at trial." *Fullman v. Graddick*, 739 F.2d 553, 558 (11th Cir. 1984); *see also Henzel v. Gerstein*, 608 F.2d 654 (5th Cir. 1979)(holding that filing charges without jurisdiction, offering perjured testimony, suppressing exculpatory evidence, and threatening a defendant with further criminal prosecution fall within the band of prosecutorial immunity).¹

For these reasons, and for reasons already explained in the Court's October 6, 2009 Order, plaintiff's motion for reconsideration is **DENIED**.

¹In *Bonner v. City of Pritchard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent the decisions of the former Fifth Circuit Court of Appeals rendered prior to October 1, 1981.

SO ORDERED, this 20th day of November, 2009.

s/ Hugh Lawson

HUGH LAWSON

UNITED STATES DISTRICT JUDGE

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